APPENDIX A
[DO NOT PUBLISH]

IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-14866
Non-Argument Calendar

D.C. Docket No. 1:17-cv-01181-TWT
WILLIAM JAMES, Sui Juris,
TERRI V. TUCKER, Sui Juris
a.k.a. Terri V. Donald-Strickland
a.k.a. TLo-Redness,
Plaintiffs-Counter
Defendants-Appellants,
versus
BARBARA HUNT,
JUDGE THOMAS W. THRASH, JR.,
Defendants-Appellees,
HARPO, LIONSGATE ENTERTAINMENT,
OPRAH WINFREY NETWORK, (OWN),
OPRAH WINFREY, d.b.a. Oprah Winfrey
Network,
TYLER PERRY COMPANY,
TYLER PERRY STUDIOS,
(TPS), TYLER PERRY, a.k.a.
Emmett Perry Jr., a.k.a.
Emmett J. Perry, a.k.a.
Buddy, a.k.a.
John Ivory, a.k.a.
Emmett M. Perry, a.k.a.
Emmbre R. Perry, a.k.a.
Emmitt R. Perry, a.k.a.

Emmett T. Perry, a.k.a.
Willie M. Perry, a.k.a.
Emmett Ty Perry, a.k.a.
Emmett Perry, a.k.a.
Tyler E. Perry, a.k.a.
Tyler Perry Studios,
Defendants-Counter Claimants-Appellees.
Appeal from the United States District Court for the Northern District of Georgia
(December 20, 2018)

Before WILSON, JORDAN and BLACK, Circuit Judges.

PER CURIAM: William James and Terri V. Tucker (the Plaintiffs) appeal pro se the district court's grant of two Defendants' motions to dismiss claims under Federal Rule of Civil Procedure 12(b) and the remaining Defendants' motion for judgment on the pleadings under Federal Rule of Civil Procedure Rule 12(c). The Plaintiffs bring five issues on appeal.[1] First, they argue the

[1] While the Plaintiffs have appealed from several more of the district court's orders in the underlying case, their failure to plainly and prominently address issues as to the remaining orders renders such issues abandoned. See Brown v. United States, 720 F.3d 1316, 1332 (11th Cir. 2013) (explaining a party abandons a claim or issue on appeal that is not plainly and prominently addressed in its brief). Thus, we will not address any issues related to the district court's: (1) dismissal of the claims against Chief Judge Thrash; (2) rulings on the remaining discovery-related motions; (3) denial of their motions for judgment as a matter of law, for judgment on the pleadings, for summary judgment, and for appeal under 28 U.S.C. § 1292(b) and to transfer the docket to this Court; and (4) Fed. R. Civ. P. 54(b) certification.

district court erred in granting judgment on the pleadings to Lionsgate Entertainment (Lionsgate), Tyler Perry, Tyler Perry Company, Tyler Perry Studios (collectively, the Perry Defendants), Oprah Winfrey, Oprah Winfrey Network, and Harpo, Inc. (collectively, the Winfrey Defendants), because claim and issue preclusion did not apply to the instant case and they stated a plausible Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962 (RICO) claim.

Second, they contend the district court erred in dismissing the claims against defendant Barbara Hunt for lack of personal jurisdiction. Third, they assert the district court abused its discretion in its rulings on the parties' motions for reassignment, recusal, and reconsideration.

Fourth, they argue the district court mismanaged the proceedings and/or violated their due process rights by hurriedly issuing various orders. Finally, the Plaintiffs contend the district court abused its discretion in its rulings on the parties' motions related to service of process and default judgment. After review, we affirm the district court.

I. *Judgment on the Pleadings*

As an initial matter, the district court did not abuse its discretion in concluding the Plaintiffs improperly and untimely attempted to amend their complaint, such that their

initial complaint was the operative complaint in the underlying proceedings.

See Coventry First, LLC v. McCarty, 605 F.3d 865, 869 (11th Cir. 2010) (stating we generally review the denial of a motion to amend a complaint under Federal Rule of Civil Procedure 15(a) for an abuse of discretion).

The Lionsgate / Perry / Winfrey Defendants filed their answers to the complaint between May 5 and 22, 2017, and Hunt filed her Rule 12(b)(2) motion on May 22, 2017.

The Plaintiffs failed to file their amended complaint until July 5, 2017. Thus, their amended complaint was untimely by at least 23 days, and at most 40 days. See Fed. R. Civ. P. 15(a)(1) (providing a party may amend its pleading once as a matter of course if it files a motion to amend within either: (a) 21 days after serving the pleading; or (b) if the pleading requires a responsive pleading, 21 days after service of the responsive pleading, or 21 days after service of a 12(b), (e), or (f) motion, whichever is earlier).

Further, the record shows the Plaintiffs never asked for, nor received, the Defendants' written consent or the court's leave to file an amended complaint, such that they were not permitted to file the amended complaint. See Fed. R. Civ. P. 15(a)(2) (providing, if the amended complaint is untimely, the party can amend its pleading only upon receiving the opposing party's written consent or the court's leave).

Despite their pro se status, the Plaintiffs were required to comply with Rule 15(a). See Moton v. Cowart, 631 F.3d 1337, 1340 n.2 (11th Cir. 2011) (stating pro se litigants must comply with procedural rules). Nor did the district court err in considering the documents from the Plaintiffs' prior lawsuits, as attached to the Defendants' initial and amended answers, and such consideration did not convert the Rule 12(c) motion for a judgment on the pleadings into a Rule 12(b)(6) motion or Rule 56 motion for summary judgment.

Rather, these documents were properly considered in the Rule 12(c) motion because they were central to the Plaintiffs' claims, as they specifically listed their prior lawsuits in their complaint and alleged the lawsuits demonstrated the Defendants' pattern of racketeering and their conspiracy to monopolize the television and film industry.

See Horsley v. Feldt, 304 F.3d 1125, 1134-35 (11th Cir. 2002) (stating for documents attached to pleadings to be considered in a motion for judgment on the pleadings, they must be central to the plaintiff's claim and undisputed).

The district court did not err in dismissing the Plaintiffs' RICO claims[2] on the

[2] While the Plaintiffs clearly challenge the dismissal of their RICO claims in their initial brief on appeal, they fail to sufficiently brief the remaining claims mentioned in their complaint, as they make only a few passing references, or no reference at all, to the Sherman Anti-Trust Act, the Clayton Act, the Hobbs

pleadings because—even assuming arguendo the Plaintiffs pled applicable.

Predicate acts for their RICO claims—they failed to plead the claims with the required level of specificity.[3] See Perez v. Wells Fargo N.A., 774 F.3d 1329, 1335 (11th Cir. 2014) (reviewing de novo the district court's grant of judgment on the pleadings); Ambrosia Coal & Constr. Co. v. Morales, 482 F.3d 1309, 1316 (11th Cir. 2007) (explaining a plaintiff must plead her civil RICO claim, which is essentially a type of fraud claim, with an increased level of specificity). Instead, the Plaintiffs incorporated by reference all prior paragraphs of their complaint, which contained numerous allegations against the Defendants without setting forth specific

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Act, the U.S. Copyright Act, the First Amendment, the Georgia constitution, or the World Intellectual Property Organization Treaty. See, Timson v. Sampson, 518 F.3d 870, 874 (11th Cir. 2008) (stating while we read pro se briefs liberally, issues not briefed on appeal by a pro se litigant are deemed abandoned and we will not consider them); Brown, 720 F.3d at 1332 (explaining the party must go beyond making passing references to the claim under different topical headings, and must clearly and unambiguously define the claim and devote a distinct section of his argument to it). 3 This Court may affirm a district court ruling on any basis supported by the record. Evans v. Ga. Reg'l Hosp., 850 F.3d 1248, 1253 (11th Cir), cert denied, 138 S. Ct. 557 (2017).

[3] This Court may affirm a district court ruling on any basis supported by the record. Evans v. Ga. Reg'l Hosp., 850 F.3d 1248, 1253 (11th Cir), cert denied, 138 S. Ct. 557 (2017).

allegations against each Defendant. See Lehman v. Lucom, 727 F.3d 1326, 1330 (11th Cir. 2013) (stating to show a violation of 18 U.S.C. § 1962, a plaintiff must establish conduct of an enterprise through a pattern of racketeering activity); Cox v. Adm'r, U.S. Steel & Carnegie, 17 F.3d 1386, 1396 (11th Cir. 1994) (stating to recover on a civil RICO claim, plaintiffs must prove § 1962 was violated, they were injured in their business or property, and the § 1962 violation caused the injury).

Namely, the Plaintiffs failed to specifically allege any precise statements, documents, or misrepresentations the Defendants made to them. See Ambrosia Coal & Constr. Co., 482 F.3d at 1316-17 (explaining to satisfy the Rule 9(b) standard, a RICO claimant must allege:

"(1) the precise statements, documents, or misrepresentations made; (2) the time and place of and person responsible for the statement; (3) the content and manner in which the statements misled [her]; and (4) what the Defendants gained by the alleged fraud"). Additionally, the Plaintiffs failed to specifically allege the time and place of, and the person responsible for, any fraudulent or misleading statements, documents, or misrepresentations, and how they were misled by any of the Defendants' statements, documents, or misrepresentations. See id. Even accepting as true all material facts alleged in the Plaintiffs' pleading and viewing those facts in the light most favorable to the

Plaintiffs, there are no material facts in dispute and the Lionsgate/ Perry/ Winfrey Defendants were entitled to judgment as a matter of law, given the Plaintiffs' failure to plead their RICO allegations with the requisite specificity.

See Perez, 774 F.3d at 1335 (stating judgment on the pleadings is appropriate if—upon accepting as true all material facts alleged in the non-movant's pleading and viewing those facts in the light most favorable to the non-movant—no material facts are in dispute and the movant is entitled to judgment as a matter of law).

II. Dismissal for Lack of Personal Jurisdiction

The district court did not err in grating Hunt's motion to dismiss for lack of personal jurisdiction. See Madara v. Hall, 916 F.2d 1510, 1514 (11th Cir. 1990) (reviewing de novo the district court's dismissal of a case for lack of personal jurisdiction). The Plaintiffs could not rely upon § 1965(d) of the RICO statute[4] to establish jurisdiction over Hunt because their asserted RICO claim against her is both (1) wholly immaterial, where their true claim against Hunt falls under copyright infringement rather than RICO; and (2) wholly insubstantial, where they failed to

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[4] The Plaintiffs have abandoned on appeal any arguments as to jurisdictional bases other than pursuant to § 1965(d). Their single, perfunctory mention of minimum contacts, with no substantive arguments or authority, is insufficient to save such an argument from abandonment. See Old West Annuity & Life Ins. Co. v. Apollo Group, 605 F.3d 856, 860 n.1 (11th Cir. 2010).

state their RICO claims with the requisite specificity. See Republic of Panama v. BCCI Holdings (Luxembourg) S.A., 119 F.3d 935, 941-42 (11th Cir. 1997) (stating as long as an asserted federal claim is not wholly immaterial or insubstantial, a plaintiff is entitled to invoke the federal statute's nationwide-service provision to establish jurisdiction).

III. Motions for Reassignment, Recusal, and Reconsideration

The initiating judge did not abuse his discretion in granting the Perry Defendants' motion to reassign the case to Chief Judge Thrash because the initiating judge had inherent authority to manage the district court docket and reassign the case to a judge who had presided over a prior related case.

See Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscape Serv., Inc., 556 F.3d 1232, 1240 (11th Cir. 2009) (explaining district courts have inherent authority to manage their own dockets to promote the orderly and expeditious disposition of their cases); initiating judge had inherent authority to manage the district court docket and reassign the case to a judge who had presided over a prior related case.

See Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscape Serv., Inc., 556 F.3d 1232, 1240 (11th Cir. 2009) (explaining district courts have inherent authority to manage their own dockets to promote the orderly and expeditious disposition of their cases); Young v. City of Palm Bay, Fla., 358

F.3d 859, 863-64 (11th Cir. 2004) (reviewing a district court's decision on how to manage its docket for abuse of discretion). Next, Chief Judge Thrash did not abuse his discretion in denying the Plaintiffs' initial recusal motion because they failed to show a basis for recusal.

See 28 U.S.C. § 455(a), (b)(1) (providing a presiding judge must recuse himself from a proceeding in which his impartiality might reasonably be questioned, or when he has a personal bias or prejudice toward or against a party); Christo v. Padgett, 223 F.3d 1324, 1333 (11th Cir. 2000) (reviewing a district court judge's refusal to recuse himself for an abuse of discretion).

Further, Chief Judge Thrash did not abuse his discretion in denying the Plaintiffs' subsequent motions for recusal, reassignment, and/or reconsideration, as nothing prevented him from ruling on the motion to recuse him, and the Plaintiffs' remaining arguments were either improperly raised for the first time in their reply brief, refuted by the record, or too speculative and conclusory to warrant recusal.

IV. Mismanagement of Proceedings and/or Violation of Due Process Rights

The district court did not abuse its discretion in making its discovery rulings, did not mismanage the docket, and did not violate the Plaintiffs' due process rights. See Borden, Inc. v. Fla. E. Coast Ry. Co., 772 F.2d 750, 756-57 (11th Cir. 1985)
(reviewing a district court's discovery decisions for an abuse of discretion); *Barfield*

v. Brierton, 883 F.2d 923, 931 (11th Cir. 1989) (reviewing a district court's ruling on a motion to stay for an abuse of discretion).

First, the district court had wide discretion to rule on any discovery requests and did not abuse its discretion by staying the proceedings, filings, and discovery until ruling on the Defendants' pending motions for judgment on the pleadings and motions to dismiss, especially in light of the fact the Plaintiffs' fraud-based claims would have substantially enlarged the scope of discovery and were largely unpersuasive.

See Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1368 (11th Cir. 1997) (providing when a district court is presented with a motion to dispose of a claim for relief that would substantially enlarge the scope of discovery, it should rule on the motion before entering discovery orders).

The court's decision to stay the proceedings and filings furthered the goals of controlling the case and saving the time and effort of the court, counsel, and the parties, as the Plaintiffs had filed a substantial amount of motions and other rulings, many of which were frivolous, within three months of the commencement of the lawsuit.

See Landis v. N. Amer. Co., 299 U.S. 248, 254 (1936) (explaining a court's power to stay proceedings is incidental to its inherent power to control the disposition of the cases on its docket to save the time and effort of the court, counsel, and the parties). While the district court ruled on the Defendants' motion

to stay within only six days, the Plaintiffs' contention they had no opportunity to respond is belied by the record.

Rather, the record shows they made three filings in the time between the Defendants' motion and the court's ruling, two of which specifically noted the Defendants' motion to stay, and they fail to explain why they were unable to also file a separate response in opposition to the Defendants' motion to stay.

The Plaintiffs fail to articulate the basis of their claim for a due process violation, and the record shows no due process violation. Also, the Plaintiffs fail to connect their assertion the district court unfairly allowed the Defendants to proceed, despite being in default, to the court's grant of a stay.

Nevertheless, such an assertion is belied by the record, as neither the clerk of court nor the district judge entered default against the Defendants. Second, the Plaintiffs' assertions—that the district court could not have considered thoroughly their filings when it issued multiple orders on October 19 and that it failed to give in-depth explanations as to each ruling—are speculative and conclusory.

In so asserting, the Plaintiffs fail to account for the fact that some of the motions and filings ruled on had been pending for months prior to the district court's multiple orders, and many of the motions and filings overlapped in subject matter. Moreover, the Plaintiffs fail to point to specific orders and

explain why they were deficient, such that this Court cannot meaningfully review such a claim.

A review of the record shows that, while the district court's orders were concise, they did not evidence a failure to consider the presented motions or any mismanaging of the docket.

V. Service-of-Process and Default-Judgment Motions

Plaintiffs have failed to show how they were harmed by the district court's grant of the Defendants' motion to quash service and returns of service and denial of the Plaintiffs' motion to strike the motion to quash. Rather, the Defendants nevertheless filed answers and responsive pleadings to the Plaintiffs' complaint, and the district court granted the Defendants' dispositive motions for judgment on the pleadings and to dismiss on several bases other than improper service of process.

Additionally, the district court did not abuse its discretion in denying the Plaintiffs' default-judgment motions because their complaint failed to state plausible RICO claims against the Defendants, such that default judgment would have been improper.

See Chudasama, 123 F.3d at 1370 n.41 (explaining "default judgment cannot stand on a complaint that fails to state a claim"); Solaroll Shade & Shutter Corp., v. Bio-Energy Sys., Inc., 803 F.2d 1130, 1134 (11th Cir. 1986) (reviewing a district court's default-judgment ruling for an abuse of discretion). Because the Defendants were not in default,

their subsequently filed answers and motions were not improper, and the Plaintiffs' motions to strike those answers and motions were meritless.

AFFIRMED.

Court of Appeals Opinion (Dec. 20, 2018)

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

WILLIAM JAMES SUI JURIS, et al.,
Plaintiffs,

v.

CIVIL ACTION
FILE NO. 1:17-CV-1181-TWT

BARBARA HUNT, et al.,
Defendants.

ORDER

This is a pro se civil RICO action. It is before the Court on the Defendants' Motion for judgment on the Pleadings [Doc. 74] of the Winfrey and Perry Defendants. All of the Plaintiffs' claims of copyright infringement are barred by res judicata and collateral estoppel. This is the third time that the Plaintiff Tucker has asserted these claims against the Perry Defendants and Lions Gate Entertainment. She lost her cases in the Southern District of New York and in this

Court. This is the second time that the Plaintiff James has asserted his copyright claims against the Perry Defendants and Lions Gate Entertainment. He lost his case in the Northern District of Indiana.

A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. Under res judicata the effect of a judgment extends to the litigation of all issues relevant to the same claim between the same parties, whether or not raised at trial.

15The bar extends not only to the precise legal theory presented in the previous litigation, but to all legal theories and claims arising out of the same "operative nucleus of fact."26 Res judicata may be properly applied only if certain prerequisites are met. In the Eleventh Circuit, a party seeking to invoke the doctrine must establish its propriety by satisfying four initial elements:

(1) the prior decision must have been rendered by a court of competent jurisdiction; (2) there must have been a final judgment on the merits; (3) both cases must involve the same parties or their privies; and (4) both cases must involve the same causes of action.37 All of the Plaintiffs' claims relating to the alleged copyright infringement of their

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1 Olmstead v. Amoco Oil Co., 725 F.2d 627, 631–32 (11th Cir. 1984).

2 *Id.*

3 In re Piper Aircraft Corp., 244 F.3d 1289, 1296 (11th Cir. 2001).

works could have been raised in the prior litigation.

Recasting the claims as RICO claims does not defeat the res judicata bar. The addition of other Defendants does not defeat the requirement that the "same parties or their privies" must be involved. The Plaintiffs' copyright claims are also barred by collateral estoppel.

To successfully invoke collateral estoppel, a party must demonstrate that: (1) the issue at stake in a pending action is identical to the one involved in the prior litigation; (2) the issue must have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in the action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding.[4][8]

All of these requirements have been met here. In addition, the Plaintiffs fail to state a plausible claim of copyright infringement as a predicate act for a RICO claim. The Plaintiffs fail to allege sufficient facts to support a plausible claim for relief with respect to their other claims. They are not only frivolous but ludicrous. The Clerk is directed to enter a final judgment in favor of

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[4] Barger v. City of Cartersville, Ga., 348 F.3d 1289, 1293 (11th Cir. 2003), overruled on other grounds by Slater v. United States Steel Corp., No. 12-15548, 2017 WL 4110047 (11th Cir. Sept. 18, 2017).

the Defendants and against the Plaintiffs on all of the Plaintiffs' claims pursuant to Fed. R. Civ. P. 54(b) there being no just reason for delay.

SO ORDERED, this 18 day of October, 2017.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge

District Court Order (Oct. 19, 2017)

APPENDIX C

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 17-I4866-FF
WILLIAM JAMES,
Sui Juris,
TERRIV. TUCKER,
Sui Juris
a.k.a. Terri V. Donald-Strickland
a.k.a. TLo-Redness,
Plaintiffs - Counter Defendants
Appellants,

Versus

BARBARA HUNT,
JUDGE THOMAS W. THRASH, JR.,
Defendants - Appellees,
HARPO LIONSGATE ENTERTAINMENT,
OPRAH WINFREY NETWORK, (OWN),
OPRAH WINFREY, d.b.a. Oprah Winfrey Network,
TYLER PERRY COMPANY,
TYLER PERRY STUDIOS, (TPS),

TYLER PERRY,
a.k.a. Emmett Perry Jr.,
a.k.a. Emmett J. Perry,
a.k.a. Buddy,
a.k.a. John Ivory,
a.k.a. Emmett M. Perry,
a.k.a. Emmbre R. Perry,
a.k.a, Emmitt R. Perry,
a.k.a. Emmett T. Perry,
a.k.a. Willie M. Perry,
a.k.a. Emmett Ty Perry,
a.k.a. Emmett Perry,
a.k.a. Tyler E. Perry,
a.k.a. Tyler Perry Studios,
Defendants – Counter Claimants Appellees.

Appeal from the United States District Court for the Northern District of Georgia
ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC
BEFORE: WILSON, JORDAN and BLACK, Circuit Judges.
PER CURIAM:

The Petition(s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure), the Petition(s) for rehearing En Banc are DENIED.

ENTERED FOR THE COURT:
//S\\ Susan Black
UNITED STATES CIRCUIT JUDGE
Order denying rehearing (Feb. 14, 2018)

APPENDIX D

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

WILLIAM JAMES SUI JURIS, et al., Plaintiffs, v. CIVIL ACTION FILE NO. 1:17-CV-1181-TWT

BARBARA HUNT, et al.,

Defendants.

ORDER

This is a pro se civil RICO action. It is before the Court on the Defendants' Motion for Summary Judgment [Doc. 157] and the Plaintiffs' Motion for Judgment [Doc. 162]. For the reasons set forth below, the Defendants' Motion for Summary Judgment [Doc. 157] is GRANTED and the Plaintiffs' Motion for Judgment [Doc. 162] is DENIED.

I. Background The Plaintiffs William James and Terri V. Tucker have asserted patently frivolous copyright infringement claims against the Defendants in a series of proceedings in various courts over the course of five years. Each of these actions arises from the same factual allegations. Tucker claims that the Tyler Perry film "Good Deeds" infringed upon the copyright in her book "Bad Apples Can Be Good Fruit." Similarly, James alleges that the Tyler Perry film "Temptation: T:\ORDERS\17\James\17cv1181\msjtwt.wpd

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Confessions of Marriage Counselor" infringed upon the copyright in his screenplay script titled "Lovers Kill." This is the third action arising out of these allegations that Tucker has filed, and the second action that James has filed. Tucker has previously lost actions arising from these claims in both the Southern District of New York and this Court. James also previously lost a case asserting these allegations in the Northern District of Indiana. Now, the Plaintiffs have filed yet another action arising from this set of facts in this Court. This time, however, they reconfigured their copyright claims as civil RICO claims.

They also added Harpo, Inc., Oprah Winfrey, Oprah Winfrey Network, and Barbara Hunt as defendants. The Court dismissed the claims against Barbara Hunt due to lack of personal jurisdiction.

1 The Court also granted the Defendants' Motion for Judgment on the Pleadings as to the remaining Defendants, finding that the Plaintiffs' claims were frivolous and barred by res judicata

2. The Plaintiffs have since appealed that ruling. The Defendants now move for summary judgment as to their counterclaim. In their counterclaim, the Defendants seek an injunction barring the Plaintiffs from instituting any further legal actions in any courts based on the facts and activities alleged in the previous lawsuits filed by the Plaintiffs.

3. The Plaintiffs

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See [Doc. 136].
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See [Doc. 138].
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See [Doc. 33] at 14-16. -2-
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have also filed a Motion for Judgment, asserting the same arguments this Court and other courts have already rejected.

II. Legal Standard Summary judgment is appropriate only when the pleadings, depositions, and affidavits submitted by the parties show no genuine issue of material fact exists and that the movant is entitled to judgment as a matter of law.

4 The court should view the evidence and any inferences that may be drawn in the light most favorable to the nonmovant.5 The party seeking summary judgment must first identify grounds to show the absence of a genuine issue of material fact.

6 The burden then shifts to the non-movant, who must go beyond the pleadings and present affirmative evidence to show that a genuine issue of material fact exists.

7 "A mere 'scintilla' of evidence supporting the opposing party's position will not suffice; there must be a sufficient showing that the jury could reasonably find for that party."8 III. Discussion

A. Plaintiffs' Motion for Judgment First, the Plaintiffs move for entry of judgment in their favor. The 4 FED. R. CIV. P. 56(a).

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Adickes v. S.H. Kress & Co. , 398 U.S. 144, 158-59 (1970).

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Celotex Corp. v. Catrett , 477 U.S. 317, 323-24 (1986).

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Anderson v. Liberty Lobby, Inc. , 477 U.S. 242, 257 (1986).

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Walker v. Darby , 911 F.2d 1573, 1577 (11th Cir. 1990). -3-T:\ORDERS\17\James\ 17cv1181\msjtwt.wpd

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Plaintiffs' Motion, which is largely repetitive, unintelligible, and lacking a basis in reality, seems to be another attempt to relitigate this Court's previous orders dismissing their claims.

9 This Court has already dismissed the Plaintiffs' claims against Barbara Hunt for lack of personal jurisdiction,

10 and granted the remaining Defendants' Motion for Judgment on the Pleadings.

11 This Court previously concluded that the Plaintiffs' claims, which are not only frivolous but ludicrous, fail to state a plausible claim for relief. The Court also

rejected the Plaintiffs' Motion for Reconsideration.

12 The Court will not further entertain the Plaintiffs' attempts to relitigate issues which it has conclusively ruled upon. This is just another attempt to argue the merits of claims that this Court has already dismissed. Furthermore, the Plaintiffs have already filed a Notice of Appeal. Thus, this Court no longer has jurisdiction over the Plaintiffs' claims.

13. The Plaintiffs' Motion for Judgment is consequently denied.

B. Defendants' Motion for Summary Judgment Next, the Defendants move for summary judgment as to their

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See Pls.' Mot. for J., at 8-10 (arguing that the Defendants are liable for damages under RICO).

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See [Doc. 136].

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See [Doc. 138].

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See [Doc. 154].

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Taylor v. Sterrett , 640 F.2d 663, 667 (11th Cir. 1981) ("It is the general rule that a district court is divested of jurisdiction upon the filing of the notice of appeal with respect to any matters involved in the appeal."). -4-
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counterclaim against the Plaintiffs.

In their counterclaim, the Defendants seek an injunction under the All Writs Act enjoining the Plaintiffs from filing future lawsuits based on the same alleged factual predicate for this action and the previous related actions.

14 According to the Defendants, the Plaintiffs are abusive litigants who have asserted baseless copyright infringement claims against them in various courts over the past five years, despite numerous judgments dismissing those claims.

The Defendants contend that an injunction barring the Plaintiffs from filing new actions based upon these allegations is necessary due to the Plaintiffs' refusal to stop asserting these same claims.

15 "Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions."

16 "The All Writs Act is a codification of this inherent power and provides that '[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.'"

17 "[T]he Act allows [courts] to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and

See [Doc. 33] at 14-16. 15 Defs.' Mot. for Summ. J., at 8-12.

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Procup v. Strickland , 792 F.2d 1069, 1073 (11th Cir. 1986).

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Maid of the Mist Corp. v. Alcatraz Media, LLC , 388 F. App'x 940, 942 (11th Cir. 2010) (quoting Klay v. United Healthgroup, Inc. , 376 F.3d 1092, 1099 (11th Cir. 2004)). -5- T:\ORDERS\17\James\ 17cv1181\msjtwt.wpd

judgments."

18 District courts have the power under the All Writs Act "to enjoin litigants who are abusing the court system by harassing their opponents."

19 This is because "[a] litigious plaintiff pressing a frivolous claim, though rarely succeeding on the merits, can be extremely costly to the defendant and can waste an inordinate amount of court time."

20 "The court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others."

21 And, although a litigant cannot be completely foreclosed from all access to the court, "[a] party seeking to obtain an All Writs Act injunction 'must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being

threatened by someone else's action or behavior.'"

22 Courts have regularly issued injunctions such as these in response to frivolous litigants.

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Klay , 376 F.3d at 1099.

19
Harrelson v. United States , 613 F.2d 114, 116 (5th Cir. 1980).

20Id.

21
Procup ,
792 F.2d at 1074.

22
Maid of the Mist Corp. , 388 F. App'x at 942 (quoting Klay , 376 F.3d
at 1100).

23

See, e.g. , Maid of the Mist Corp. , 388 F. App'x at 942 (concluding that an injunction was proper when the plaintiff "repeatedly filed unsubstantiated, duplicative pleadings, many after the district court issued an order denying them"); Laosebikan v. Coca-Cola Co. ,415 F. App'x 211, 215 (11th Cir. 2011) (holding that a filing injunction was appropriate since the vexatious plaintiff's claims were barred by res judicata); Harrelson , 613 F.2d at 116 (upholding filing injunction when "the plaintiff has forced various defendants in and out of court for almost five years and has had a full

The Court concludes that the requested injunction is necessary to protect the integrity of the court system and to prevent the continued harassment of the Defendants by the Plaintiffs.

This is the third time that Tucker has asserted these claims against the Perry Defendants and Lions Gate Entertainment. She lost her cases in the Southern District of New York and in this Court. This is the second time that James has asserted his copyright claims against the Perry Defendants and Lions Gate Entertainment. He lost his case in the Northern District of Indiana.

The Plaintiffs have demonstrated a consistent disregard for the judgments of the various courts dismissing these actions. Absent an injunction, there is no indication the Plaintiffs will think twice about continuing to assert these baseless claims against the Defendants. The principles of res judicata have not served as a deterrent to frivolous filings by the Plaintiffs. And, the Plaintiffs' conduct within this particular case has itself been disruptive and abusive to the Court's judicial function.

The Plaintiffs have filed over 90 purported motions, counter-motions, replies, objections, amendments and exhibits since the commencement of this action, consuming thousands of pages of record. And, as this

Court previously noted, each of these filings "had little or no basis in fact or law or relevance, or which are otherwise present and litigate his claims"); In re Williams , No. MC 117-001, 2017 WL 3167378, at *1-*3 (S.D. Ga. July 25, 2017) (enjoining a "serial frivolous filer" who had engaged in a "campaign of harassment and vexatious litigation in federal courts"). -7-T:\ORDERS\17\James\ 17cv1181\msjtwt.wpd
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unintelligible."

24 The Plaintiffs have consistently made outrageous and fanciful claims in their filings. This conduct is not only costly and burdensome to the Defendants, but also imposes "a burden to clerical and judicial operations and is an impediment to the administration of justice."

25 Because of this, the Court concludes that a filing injunction under the All Writs Act is appropriate here. The Court has the inherent jurisdiction to protect itself against the abuses that litigants such as Tucker and James visit upon it.

26 Without an injunction, the Plaintiffs will very likely continue to use the judicial system as a tool to harass the Defendants and waste judicial resources. The Plaintiffs have displayed nothing short of complete disregard for the numerous court rulings in favor of the Defendants.

Therefore, the Court orders that the Plaintiffs are enjoined from filing any further

pleading, motion, or other paper in relation to the instant action (other than the pending appeal and any appeal of this Order), and any new lawsuit in any court against any of the Defendants named in this action involving claims arising from the same factual predicate or nucleus of operative facts as this case without obtaining the express written permission of the undersigned.

24

See [Doc. 95] at 1. 25 Maid of the Mist Corp. , 388 F. App'x at 942.

26

Procup v. Strickland , 792 F.2d 1069, 1073 (11th Cir. 1986) ("There should be little doubt that the district court has the jurisdiction to protect itself against the abuses that litigants like Procup visit upon it."). -8- DERS\17\James\ 17cv1181\msjtwt.wpd

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IV. Conclusion For the reasons stated above, the Defendants' Motion for Summary Judgment [Doc. 157] is GRANTED and the Plaintiffs' Motion for Judgment [Doc. 162] is DENIED. SO ORDERED, this 10 day of August, 2018. /s/Thomas W. Thrash THOMAS W. THRASH, JR. United States District Judge

Additional material from this filing is available in the Clerk's Office.